S.B.CRIMINAL MISC. PETITION NO.292/2007
(Gopal Krishan Agarwal V/s Ashok Arora)

Date of order : : 06.04.2007

HON'BLE MR. KRISHAN KUMAR ACHARYA, J.

Mr.Hemant Kumar Jain, for the petitioner(s).
Mr.Sunil Beniwal, for the respondent.

Heard the learned counsel for the petitioner as well as the learned counsel for the respondent.

The learned counsel for the petitioner states that although the learned trial Court has dismissed the application filed by the petitioner under Section 245 Cr.P.C. and the said order has been affirmed by the learned Revisional Court, but by the present misc. petition, he has prayed for quashing the complete proceedings on the ground that the complaint filed by Ashok Arora is not in accordance with the provisions of Section 142 of the Negotiable Instrument Act. He was neither payee nor he was holder in due course, therefore, he has not been impleaded as party in the case. Learned counsel prays that the proceedings

initiated against the petitioner is bad in the eye of law.

The learned counsel for the non-petitioner states that Ashok Arora was special power of attorney holder and the Board of Director of the Company has authorised him to file this complaint. The present application has been filed just in order to cause delay and hence, this misc. petition may kindly be dismissed.

I have considered the rival submissions made by the learned counsel for the parties and gone through the impugned order.

The learned trial Court has dismissed the application under Section 245 Cr.P.C. and the said order has been affirmed by the learned Revisional Court holding that it was not a warrant case.

I do not find any illegality in the impugned orders passed by the courts below, but since the petitioner has taken objection regarding maintainability of the compliant on the ground

that the Company has not filed any complaint, but only Ashok Arora, power of attorney holder has filed the complaint and also he was not holder in due course nor he was payee for this purpose. Since the trial of the case is almost complete and has reached to the final stage, therefore, this Court without commenting on the merit of the case, left open to the petitioner to take all these objections before the learned trial Court at the time of final arguments. Learned trial Court shall decide all the objections and this point also whether the complainant was holder in due course or not or the complaint filed by the complainant is in accordance with law or not, after hearing both the parties.

With the above observations, the present misc. petition is disposed of.

(KRISHAN KUMAR ACHARYA), J.

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